



House of Representatives

General Assembly

File No. 312

January Session, 2009

Substitute House Bill No. 6527

House of Representatives, March 30, 2009

The Committee on Insurance and Real Estate reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING MINOR CHANGES TO THE INSURANCE AND RELATED STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (15) of subsection (a) of section 38a-25 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (15) Captive insurers, as defined in section [38a-91k] 38a-91aa, if a
5 registered agent cannot with reasonable diligence be found at the
6 registered office of the captive insurance company.

7 Sec. 2. Subsection (d) of section 38a-91ff of the general statutes is
8 repealed and the following is substituted in lieu thereof (*Effective from*
9 *passage*):

10 (d) In the case of a captive insurance company:

11 (1) [(A)] Formed as a corporation, before the articles of

12 incorporation are transmitted to the Secretary of the State, the
13 incorporators shall petition the Insurance Commissioner to issue a
14 certificate setting forth the commissioner's finding that the
15 establishment and maintenance of the proposed corporation will
16 promote the general good of the state. In arriving at such a finding the
17 commissioner shall consider:

18 [(i)] (A) The character, reputation, financial standing and purposes
19 of the incorporators;

20 [(ii)] (B) The character, reputation, financial responsibility, insurance
21 experience and business qualifications of the officers and directors;
22 and

23 [(iii)] (C) Such other aspects as the commissioner deems advisable.

24 [(B) The articles of incorporation, such certificate and the
25 organization fee shall be transmitted to the Secretary of the State who
26 shall record both the articles of incorporation and the certificate.]

27 (2) Formed as a reciprocal insurer, the organizers shall petition the
28 commissioner to issue a certificate setting forth the commissioner's
29 finding that the establishment and maintenance of the proposed
30 association will promote the general good of the state. In arriving at
31 such a finding the commissioner shall consider the items set forth in
32 [subparagraph (A) of] subdivision (1) of this subsection.

33 (3) Formed as a limited liability company, before the articles of
34 organization are transmitted to the Secretary of the State, the
35 organizers shall petition the commissioner to issue a certificate setting
36 forth the commissioner's finding that the establishment and
37 maintenance of the proposed company will promote the general good
38 of the state. In arriving at such a finding, the commissioner shall
39 consider the items set forth in [subparagraph (A) of] subdivision (1) of
40 this subsection.

41 (4) The articles of incorporation and certificate set forth in
42 subdivisions (1) to (3), inclusive, of this subsection shall be transmitted

43 to the Secretary of the State along with any fees required by the
44 Secretary of State, who shall record both the articles of incorporation
45 and the certificate.

46 Sec. 3. Section 38a-465a of the general statutes is repealed and the
47 following is substituted in lieu thereof (*Effective from passage*):

48 (a) Except as otherwise provided in this part, no person shall act as a
49 provider or broker until the person is licensed by the commissioner
50 pursuant to this section.

51 (b) Any applicant for a license as a provider or broker shall submit
52 written application to the commissioner. Such applicants shall provide
53 such information as the commissioner requires. All initial applications
54 shall be accompanied by a filing fee specified in section 38a-11.

55 (c) A life insurance producer, who has been duly licensed as a
56 resident insurance producer with a life line of authority in this state or
57 in said producer's home state for not less than one year and is licensed
58 as a nonresident producer pursuant to section 38a-702g, shall be
59 deemed to meet the licensing requirements of this section and shall be
60 permitted to operate as a broker.

61 (d) Not later than thirty days from the first day of operating as a
62 broker, a life insurance producer shall notify the commissioner that
63 said producer is acting as a broker on a form prescribed by the
64 commissioner, and shall pay a filing fee as specified in section 38a-11.
65 Such notification shall include an acknowledgement by the life
66 insurance producer that said producer shall operate as a broker in
67 accordance with this part.

68 (e) The insurer that issued the policy that is the subject of a life
69 settlement contract shall not be responsible for any act or omission of a
70 broker, provider or purchaser arising out of or in connection with the
71 life settlement transaction, unless the insurer receives compensation
72 for the placement of a life settlement contract from the broker,
73 provider or purchaser in connection with such life settlement contract.

74 (f) A person licensed as an attorney, certified public accountant or
75 financial planner accredited by a nationally recognized accreditation
76 agency, who is retained to represent the owner and whose
77 compensation is not paid directly or indirectly by the provider or
78 purchaser, may negotiate life settlement contracts on behalf of the
79 owner without being required to obtain a license as a broker.

80 (g) Any license issued for a provider or broker shall be in force only
81 until the last day of March in each year, but may be renewed by the
82 commissioner without formality other than proper application. The
83 fees for such licenses shall be assessed annually, as provided in section
84 38a-11. If such provider or broker fails to timely pay the renewal fee,
85 such license shall be automatically revoked if the license fee is not
86 received by the commissioner not later than the fifth day after the
87 commissioner sends, by first class mail, a written notice of nonrenewal
88 to the principal office of the provider or broker, provided such notice
89 shall only be mailed after said last day of March.

90 [(h) The term of a provider license shall be equal to that of a
91 domestic stock life insurance company and the term of a broker license
92 shall be equal to that of an insurance producer license. Licenses
93 requiring periodic renewal shall be renewed on their anniversary date
94 upon payment of the renewal fee, as specified in subsection (b) of this
95 section. Failure to pay the fees on or before the renewal date shall
96 result in expiration of the license.]

97 [(i)] (h) Upon the filing of an application and full payment of the
98 license fee, the commissioner shall investigate the applicant and shall
99 issue a license if the commissioner determines that:

100 (1) The applicant, if a provider, has provided a detailed plan of
101 operation;

102 (2) The applicant is competent and trustworthy, and intends to act
103 in good faith pursuant to the license applied for;

104 (3) The applicant has a good business reputation and adequate

105 experience, training or education so as to be qualified in the business
106 for which the license is applied;

107 (4) If the applicant is a corporation, partnership, limited liability
108 company or other legal entity, the applicant is formed or organized
109 pursuant to the laws of this state or is a foreign legal entity authorized
110 to do business in this state, or provides a certificate of good standing
111 from its state of domicile; and

112 (5) The applicant has provided to the commissioner an antifraud
113 plan that meets the requirements of subsection (i) of section 38a-465j
114 and includes:

115 (A) A description of the procedures for detecting and investigating
116 possible fraudulent acts and procedures for resolving material
117 inconsistencies between medical records and insurance applications;

118 (B) A description of the procedures for reporting fraudulent
119 insurance acts to the commissioner;

120 (C) A description of the plan for antifraud education and training of
121 its underwriters and other personnel; and

122 (D) A written description or chart outlining the arrangement of the
123 antifraud personnel responsible for the investigation and reporting of
124 possible fraudulent insurance acts and investigating unresolved
125 material inconsistencies between medical records and insurance
126 applications.

127 [(j)] (i) The applicant shall provide to the commissioner such
128 information as the commissioner may require, on forms approved by
129 the commissioner. The commissioner may, at any time, require the
130 applicant to fully disclose the identity of its stockholders, except
131 stockholders owning less than ten per cent of the shares of an applicant
132 whose shares are publicly traded, partners, officers and employees,
133 and the commissioner may deny any application for a license if the
134 commissioner determines that any partner, officer, employee or
135 stockholder thereof who may materially influence the applicant's

136 conduct fails to meet any of the standards set forth in sections 38a-465
137 to 38a-465q, inclusive.

138 [(k)] (j) A license issued to a corporation, partnership, limited
139 liability company or other legal entity authorizes all of such legal
140 entity's members, officers and designated employees named in the
141 application for such license, and any supplements to the application, to
142 act as a licensee under such license.

143 [(l)] (k) The commissioner shall not issue any license to any
144 nonresident applicant unless a written designation of an agent for
145 service of process is filed and maintained with the commissioner or
146 unless the applicant has filed with the commissioner the applicant's
147 written irrevocable consent that any action against the applicant may
148 be commenced against the applicant by service of process on the
149 commissioner.

150 [(m)] (l) Each licensee shall file with the commissioner on or before
151 the first day of March of each year an annual statement containing
152 such information as the commissioner may prescribe by regulation.

153 [(n)] (m) A provider shall not use any person to perform the
154 functions of a broker, as defined in this part, unless such person holds
155 a current, valid license as a broker and as provided in this section.

156 [(o)] (n) A broker shall not use any person to perform the functions
157 of a provider, as defined in this part, unless such person holds a
158 current, valid license as a provider and as provided in this section.

159 [(p)] (o) A provider or broker shall provide to the commissioner
160 new or revised information about officers, stockholders holding ten
161 per cent or more of the company's stock, partners, directors, members
162 or designated employees not later than thirty days after the change in
163 information.

164 [(q)] (p) An individual licensed as a broker shall complete, on a
165 biennial basis, fifteen hours of training related to life settlements and
166 life settlement transactions, except that a life insurance producer

167 operating as a broker pursuant to this section shall not be subject to the
168 requirements of this subsection. Any person failing to meet the
169 requirements of this subsection shall be subject to the penalties
170 imposed by the commissioner.

171 Sec. 4. Section 38a-465g of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective from passage*):

173 (a) Before entering into a life settlement contract with any owner of
174 a policy wherein the insured is terminally ill or chronically ill, a
175 provider shall obtain:

176 (1) If the owner is the insured, a written statement from a licensed
177 attending physician that the owner is of sound mind and under no
178 constraint or undue influence to enter into the settlement contract; and

179 (2) A document in which the insured consents to the release of the
180 insured's medical records to a provider, broker or insurance producer,
181 and, if the policy was issued less than two years from the date of
182 application for a settlement contract, to the insurance company that
183 issued the policy.

184 (b) The insurer shall respond to a request for verification of
185 coverage submitted by a provider, broker or life insurance producer on
186 a form approved by the commissioner not later than thirty calendar
187 days after the date the request was received. The insurer shall
188 complete and issue the verification of coverage or indicate in which
189 respects it is unable to respond. In its response, the insurer shall
190 indicate whether, based on the medical evidence and documents
191 provided, the insurer intends to pursue an investigation regarding the
192 validity of the policy.

193 (c) Prior to or at the time of execution of the settlement contract, the
194 provider shall obtain a witnessed document in which the owner
195 consents to the settlement contract, represents that the owner has a full
196 and complete understanding of the settlement contract, that the owner
197 has a full and complete understanding of the benefits of the policy,

198 acknowledges that the owner is entering into the settlement contract
199 freely and voluntarily and, for persons with a terminal or chronic
200 illness or condition, acknowledges that the insured has a terminal or
201 chronic illness or condition and that the terminal or chronic illness or
202 condition was diagnosed after the life insurance policy was issued.

203 (d) If a broker or life insurance producer performs any of the
204 activities required of the provider under this section, the provider shall
205 be deemed to have fulfilled the requirements of this section.

206 [(e) If a broker performs the verification of coverage activities
207 required of the provider, the provider shall be deemed to have fulfilled
208 the requirements of subsection (a) of section 38a-465f.]

209 [(f)] (e) The insurer shall not unreasonably delay effecting change of
210 ownership or beneficiary with any life settlement contract lawfully
211 entered into in this state or with a resident of this state.

212 [(g)] (f) Not later than twenty days after an owner executes the life
213 settlement contract, the provider shall give written notice to the insurer
214 that issued the policy that the policy has become subject to a life
215 settlement contract. The notice shall be accompanied by [the
216 documents set forth in subsection (c) of section 38a-465h] a copy of the
217 medical records release required under subdivision (2) of subsection
218 (a) of this section and a copy of the insured's application for the life
219 settlement contract.

220 [(h)] (g) All medical information solicited or obtained by any person
221 licensed pursuant to this part shall be subject to applicable provisions
222 of law relating to the confidentiality of medical information.

223 [(i)] (h) Each life settlement contract entered into in this state shall
224 provide that the owner may rescind the contract not later than fifteen
225 days from the date it is executed by all parties thereto. Such rescission
226 exercised by the owner shall be effective only if both notice of
227 rescission is given to the provider and the owner repays all proceeds
228 and any premiums, loans and loan interest paid by the provider within

229 the rescission period. A failure to provide written notice of the right of
230 rescission shall toll the period of such right until thirty days after the
231 written notice of the right of rescission has been given. If the insured
232 dies during the rescission period, the contract shall be deemed to have
233 been rescinded, subject to repayment by the owner or the owner's
234 estate of all proceeds and any premiums, loans and loan interest to the
235 provider.

236 [(j)] (i) Not later than three business days after the date the provider
237 receives the documents from the owner to effect the transfer of the
238 insurance policy, the provider shall pay or transfer the proceeds of the
239 settlement into an escrow or trust account managed by a trustee or
240 escrow agent in a state or federally-chartered financial institution
241 whose deposits are insured by the Federal Deposit Insurance
242 Corporation. Not later than three business days after receiving
243 acknowledgment of the transfer of the insurance policy from the issuer
244 of the policy, said trustee or escrow agent shall pay the settlement
245 proceeds to the owner.

246 [(k)] (j) Failure to tender the life settlement contract proceeds to the
247 owner within the time set forth in section 38a-465f shall render the
248 viatical settlement contract voidable by the owner for lack of
249 consideration until the time such consideration is tendered to, and
250 accepted by, the owner.

251 [(l)] (k) Any fee paid by a provider, party, individual or an owner to
252 a broker in exchange for services provided to the owner pertaining to a
253 life settlement contract shall be computed as a percentage of the offer
254 obtained and not as a percentage of the face value of the policy.
255 Nothing in this section shall be construed to prohibit a broker from
256 reducing such broker's fee below such percentage.

257 [(m)] (l) Each broker shall disclose to the owner anything of value
258 paid or given to such broker in connection with a life settlement
259 contract concerning the owner.

260 [(n)] (m) No person at anytime prior to, or at the time of, the

261 application for or issuance of a policy, or during a two-year period
262 commencing with the date of issuance of the policy, shall enter into a
263 life settlement contract regardless of the date the compensation is to be
264 provided and regardless of the date the assignment, transfer, sale,
265 devise, bequest or surrender of the policy is to occur. This prohibition
266 shall not apply if the owner certifies to the provider that:

267 (1) The policy was issued upon the owner's exercise of conversion
268 rights arising out of a group or individual policy, provided the total of
269 the time covered under the conversion policy plus the time covered
270 under the prior policy is not less than twenty-four months. The time
271 covered under a group policy must be calculated without regard to a
272 change in insurance carriers, provided the coverage has been
273 continuous and under the same group sponsorship; or

274 (2) The owner submits independent evidence to the provider that
275 one or more of the following conditions have been met within said
276 two-year period: (A) The owner or insured is terminally ill or
277 chronically ill; (B) the owner or insured disposes of the owner or
278 insured's ownership interests in a closely held corporation, pursuant to
279 the terms of a buyout or other similar agreement in effect at the time
280 the insurance policy was initially issued; (C) the owner's spouse dies;
281 (D) the owner divorces his or her spouse; (E) the owner retires from
282 full-time employment; (F) the owner becomes physically or mentally
283 disabled and a physician determines that the disability prevents the
284 owner from maintaining full-time employment; or (G) a final order,
285 judgment or decree is entered by a court of competent jurisdiction on
286 the application of a creditor of the owner, adjudicating the owner
287 bankrupt or insolvent, or approving a petition seeking reorganization
288 of the owner or appointing a receiver, trustee or liquidator to all or a
289 substantial part of the owner's assets.

290 [(o)] (n) Copies of the independent evidence required by
291 subdivision (2) of subsection [(n)] (m) of this section shall be submitted
292 to the insurer when the provider submits a request to the insurer for
293 verification of coverage. The copies shall be accompanied by a letter of

294 attestation from the provider that the copies are true and correct copies
295 of the documents received by the provider. Nothing in this section
296 shall prohibit an insurer from exercising its right to contest the validity
297 of any policy.

298 [(p)] (o) If, at the time the provider submits a request to the insurer
299 to effect the transfer of the policy to the provider, the provider submits
300 a copy of independent evidence of subparagraph (A) of subdivision (2)
301 of subsection [(n)] (m) of this section, such copy shall be deemed to
302 establish that the settlement contract satisfies the requirements of this
303 section.

304 Sec. 5. Subsection (b) of section 38a-479rr of the general statutes is
305 repealed and the following is substituted in lieu thereof (*Effective from*
306 *passage*):

307 (b) (1) A current and accurate list of authorized marketers, specified
308 in subparagraph (M) of subdivision (2) of subsection (a) of this section,
309 shall be submitted to the commissioner with each renewal fee, as set
310 forth in subsection (c) of this section.

311 (2) Any change made to the list of authorized marketers, specified in
312 subparagraph (M) of subdivision (2) of subsection (a) of this section,
313 shall be electronically filed with the commissioner. If such change is to
314 add a marketer to a medical discount plan organization's list of
315 authorized marketers, such change shall be electronically filed by such
316 organization prior to the marketer doing business in the state for such
317 organization.

318 (3) The commissioner may adopt regulations, in accordance with
319 chapter 54, to establish the procedure and format of the electronic
320 filing [and acknowledgment] set forth in this subsection.

321 Sec. 6. Section 38a-492j of the general statutes is repealed and the
322 following is substituted in lieu thereof (*Effective January 1, 2010*):

323 Each individual health insurance policy providing coverage of the
324 type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-

325 469 delivered, issued for delivery, renewed, amended or continued in
326 this state [on or after October 1, 2000,] that provides coverage for
327 ostomy surgery shall include coverage, up to one thousand dollars
328 annually, for medically necessary appliances and supplies relating to
329 an ostomy including, but not limited to, collection devices, irrigation
330 equipment and supplies, skin barriers and skin protectors. As used in
331 this section, "ostomy" includes colostomy, ileostomy and urostomy.
332 Payments under this section shall not be applied to any policy
333 maximums for durable medical equipment. Nothing in this section
334 shall be deemed to decrease policy benefits in excess of the limits in
335 this section.

336 Sec. 7. Section 38a-504 of the general statutes is repealed and the
337 following is substituted in lieu thereof (*Effective January 1, 2010*):

338 (a) Each insurance company, hospital service corporation, medical
339 service corporation, health care center or fraternal benefit society
340 [which] that delivers, [or] issues for delivery, renews, amends or
341 continues in this state individual health insurance policies providing
342 coverage of the type specified in subdivisions (1), (2), (4), (10), (11) and
343 (12) of section 38a-469, shall provide coverage under such policies for
344 the surgical removal of tumors and treatment of leukemia, including
345 outpatient chemotherapy, reconstructive surgery, cost of any
346 nondental prosthesis including any maxillo-facial prosthesis used to
347 replace anatomic structures lost during treatment for head and neck
348 tumors or additional appliances essential for the support of such
349 prosthesis, outpatient chemotherapy following surgical procedure in
350 connection with the treatment of tumors, and a wig if prescribed by a
351 licensed oncologist for a patient who suffers hair loss as a result of
352 chemotherapy. Such benefits shall be subject to the same terms and
353 conditions applicable to all other benefits under such policies.

354 (b) Except as provided in subsection (c) of this section, the coverage
355 required by subsection (a) of this section shall provide at least a yearly
356 benefit of five hundred dollars for the surgical removal of tumors, five
357 hundred dollars for reconstructive surgery, five hundred dollars for

358 outpatient chemotherapy, three hundred fifty dollars for a wig and
359 three hundred dollars for a nondental prosthesis, except that for
360 purposes of the surgical removal of breasts due to tumors the yearly
361 benefit for prosthesis shall be at least three hundred dollars for each
362 breast removed.

363 (c) The coverage required by subsection (a) of this section shall
364 provide benefits for the reasonable costs of reconstructive surgery on
365 each breast on which a mastectomy has been performed, and
366 reconstructive surgery on a nondiseased breast to produce a
367 symmetrical appearance. Such benefits shall be subject to the same
368 terms and conditions applicable to all other benefits under such
369 policies. For the purposes of this subsection, reconstructive surgery
370 includes, but is not limited to, augmentation mammoplasty, reduction
371 mammoplasty and mastopexy.

372 Sec. 8. Subsection (a) of section 38a-517a of the general statutes is
373 repealed and the following is substituted in lieu thereof (*Effective*
374 *January 1, 2010*):

375 (a) Each group health insurance policy providing coverage of the
376 type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-
377 469 delivered, issued for delivery, renewed, amended or continued in
378 this state [on or after January 1, 2000,] shall provide coverage for
379 general anesthesia, nursing and related hospital services provided in
380 conjunction with in-patient, outpatient or one-day dental services if the
381 following conditions are met:

382 (1) The anesthesia, nursing and related hospital services are deemed
383 medically necessary by the treating dentist or oral surgeon and the
384 patient's primary care physician in accordance with the health
385 insurance policy's requirements for prior authorization of services; and

386 (2) The patient is either (A) determined by a licensed dentist, in
387 conjunction with a licensed physician who specializes in primary care,
388 to have a dental condition of significant dental complexity that it
389 requires certain dental procedures to be performed in a hospital, or (B)

390 a person who has a developmental disability, as determined by a
391 licensed physician who specializes in primary care, that places the
392 person at serious risk.

393 Sec. 9. Section 38a-518j of the general statutes is repealed and the
394 following is substituted in lieu thereof (*Effective January 1, 2010*):

395 Each group health insurance policy providing coverage of the type
396 specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469
397 delivered, issued for delivery, renewed, amended or continued in this
398 state [on or after October 1, 2000,] that provides coverage for ostomy
399 surgery shall include coverage, up to one thousand dollars annually,
400 for medically necessary appliances and supplies relating to an ostomy
401 including, but not limited to, collection devices, irrigation equipment
402 and supplies, skin barriers and skin protectors. As used in this section,
403 "ostomy" includes colostomy, ileostomy and urostomy. Payments
404 under this section shall not be applied to any policy maximums for
405 durable medical equipment. Nothing in this section shall be deemed to
406 decrease policy benefits in excess of the limits in this section.

407 Sec. 10. Section 38a-542 of the general statutes is repealed and the
408 following is substituted in lieu thereof (*Effective January 1, 2010*):

409 (a) Each insurance company, hospital service corporation, medical
410 service corporation, health care center or fraternal benefit society
411 [which] that delivers, [or] issues for delivery, renews, amends or
412 continues in this state group health insurance policies providing
413 coverage of the type specified in subdivisions (1), (2), (4), (11) and (12)
414 of section 38a-469 shall provide coverage under such policies for
415 treatment of leukemia, including outpatient chemotherapy,
416 reconstructive surgery, cost of any nondental prosthesis, including any
417 maxillo-facial prosthesis used to replace anatomic structures lost
418 during treatment for head and neck tumors or additional appliances
419 essential for the support of such prosthesis, outpatient chemotherapy
420 following surgical procedures in connection with the treatment of
421 tumors, a wig if prescribed by a licensed oncologist for a patient who
422 suffers hair loss as a result of chemotherapy, and costs of removal of

423 any breast implant which was implanted on or before July 1, 1994,
424 without regard to the purpose of such implantation, which removal is
425 determined to be medically necessary. Such benefits shall be subject to
426 the same terms and conditions applicable to all other benefits under
427 such policies.

428 (b) Except as provided in subsection (c) of this section, the coverage
429 required by subsection (a) of this section shall provide at least a yearly
430 benefit of one thousand dollars for the costs of removal of any breast
431 implant, five hundred dollars for the surgical removal of tumors, five
432 hundred dollars for reconstructive surgery, five hundred dollars for
433 outpatient chemotherapy, three hundred fifty dollars for a wig and
434 three hundred dollars for a nondental prosthesis, except that for
435 purposes of the surgical removal of breasts due to tumors the yearly
436 benefit for prosthesis shall be at least three hundred dollars for each
437 breast removed.

438 (c) The coverage required by subsection (a) of this section shall
439 provide benefits for the reasonable costs of reconstructive surgery on
440 each breast on which a mastectomy has been performed, and
441 reconstructive surgery on a nondiseased breast to produce a
442 symmetrical appearance. Such benefits shall be subject to the same
443 terms and conditions applicable to all other benefits under such
444 policies. For the purposes of this subsection, reconstructive surgery
445 includes, but is not limited to, augmentation mammoplasty, reduction
446 mammoplasty and mastopexy.

447 Sec. 11. Section 14-64 of the general statutes is repealed and the
448 following is substituted in lieu thereof (*Effective from passage*):

449 The commissioner may suspend or revoke the license or licenses of
450 any licensee or impose a civil penalty of not more than one thousand
451 dollars for each violation on any licensee or both, when, after notice
452 and hearing, the commissioner finds that the licensee (1) has violated
453 any provision of any statute or regulation of any state or any federal
454 statute or regulation pertaining to its business as a licensee or has
455 failed to comply with the terms of a final decision and order of any

456 state department or federal agency concerning any such provision; or
457 (2) has failed to maintain such records of transactions concerning the
458 purchase, sale or repair of motor vehicles or major component parts, as
459 required by such regulations as shall be adopted by the commissioner,
460 for a period of two years after such purchase, sale or repairs, provided
461 the records shall include the vehicle identification number and the
462 name and address of the person from whom each vehicle or part was
463 purchased and to whom each vehicle or part was sold, if a sale
464 occurred; or (3) has failed to allow inspection of such records by the
465 commissioner or the commissioner's representative during normal
466 business hours, provided written notice stating the purpose of the
467 inspection is furnished to the licensee, or has failed to allow inspection
468 of such records by any representative of the Division of State Police
469 within the Department of Public Safety or any organized local police
470 department, which inspection may include examination of the
471 premises to determine the accuracy of such records; or (4) has made a
472 false statement as to the condition, prior ownership or prior use of any
473 motor vehicle sold, exchanged, transferred, offered for sale or repaired
474 if the licensee knew or should have known that such statement was
475 false; or (5) is not qualified to conduct the licensed business, applying
476 the standards of section 14-51 and the applicable regulations; or (6) has
477 violated any provision of sections 42-221 to 42-226, inclusive; or (7) has
478 failed to fully execute or provide the buyer with (A) an order as
479 described in section 14-62, (B) the properly assigned certificate of title,
480 or (C) a temporary transfer or new issue of registration; or (8) has
481 failed to deliver a motor vehicle free and clear of all liens, unless
482 written notification is given to the buyer stating such motor vehicle
483 shall be purchased subject to a lien; or (9) has violated any provision of
484 sections 14-65f to 14-65j, inclusive, 14-65l and 14-65m; or (10) has used
485 registration number plates issued by the commissioner, in violation of
486 the provisions and standards set forth in sections 14-59 and 14-60 and
487 the applicable regulations; or (11) has failed to secure or to account for
488 or surrender to the commissioner on demand official registration
489 plates or any other official materials in its custody. In addition to, or in
490 lieu of, the imposition of any other penalties authorized by this section,

491 the commissioner may order any such licensee to make restitution to
492 any aggrieved customer.

493 Sec. 12. Section 14-65e of the general statutes is repealed and the
494 following is substituted in lieu thereof (*Effective from passage*):

495 For the purposes of sections 14-65f to 14-65j, inclusive, 14-65l and
496 14-65m, "motor vehicle repair shop" or "repair shop" means a new car
497 dealer, a used car dealer, a repairer, or a limited repairer, as defined in
498 section 14-51, or their agents or employees.

499 Sec. 13. Subsection (a) of section 14-65g of the general statutes is
500 repealed and the following is substituted in lieu thereof (*Effective from*
501 *passage*):

502 (a) A customer may waive his right to the estimate of the costs of
503 parts and labor required by section 14-65f, only in writing in
504 accordance with this section. Such a waiver shall include an
505 authorization to perform reasonable and necessary repairs to remedy
506 the problems complained of, at a cost not to exceed a fixed dollar
507 amount. The waiver shall be signed by the customer and the customer
508 shall be given a fully completed copy of the waiver at the time it is
509 signed. No repair shop shall use waivers to evade its duties under
510 sections 14-65e to 14-65j, inclusive, 14-65l and 14-65m.

511 Sec. 14. Section 14-65k of the general statutes is repealed and the
512 following is substituted in lieu thereof (*Effective from passage*):

513 (a) The Commissioner of Motor Vehicles may conduct
514 investigations and hold hearings on any matter under the provisions of
515 sections 14-51 to 14-65j, inclusive, 14-65l and 14-65m. The
516 commissioner may issue subpoenas, administer oaths, compel
517 testimony and order the production of books, records and documents.
518 If any person refuses to appear, to testify or to produce any book,
519 record, paper or document when so ordered, upon application of the
520 commissioner, a judge of the Superior Court may make such order as
521 may be appropriate to aid in the enforcement of this section.

522 (b) The Attorney General, at the request of the commissioner, is
 523 authorized to apply in the name of the state of Connecticut to the
 524 Superior Court for an order temporarily or permanently restraining
 525 and enjoining any person from violating any provision of sections 14-
 526 51 to 14-65j, inclusive, 14-65l and 14-65m.

527 Sec. 15. Section 29-152n of the general statutes is repealed and the
 528 following is substituted in lieu thereof (*Effective from passage*):

529 Any person who violates any provision of sections 29-152e to
 530 29-152m, inclusive, [and 38a-660a] shall be guilty of a class D felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	38a-25(a)(15)
Sec. 2	<i>from passage</i>	38a-91ff(d)
Sec. 3	<i>from passage</i>	38a-465a
Sec. 4	<i>from passage</i>	38a-465g
Sec. 5	<i>from passage</i>	38a-479rr(b)
Sec. 6	<i>January 1, 2010</i>	38a-492j
Sec. 7	<i>January 1, 2010</i>	38a-504
Sec. 8	<i>January 1, 2010</i>	38a-517a(a)
Sec. 9	<i>January 1, 2010</i>	38a-518j
Sec. 10	<i>January 1, 2010</i>	38a-542
Sec. 11	<i>from passage</i>	14-64
Sec. 12	<i>from passage</i>	14-65e
Sec. 13	<i>from passage</i>	14-65g(a)
Sec. 14	<i>from passage</i>	14-65k
Sec. 15	<i>from passage</i>	29-152n

INS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Motor Vehicles	TF - Revenue Gain	Potential Minimal	Potential Minimal

Note: TF=Transportation Fund

Municipal Impact: None

Explanation

This bill expands penalties of not more than \$1,000 assessed by the Department of Motor Vehicles ("DMV") to include violations of motor vehicle shop repair requirements and results in a potential revenue gain to the Transportation Fund, subject to the number of violations of these requirements which is unknown. Other provisions of the bill do not result in a fiscal impact to the state or municipalities.

The Out Years

The fiscal impact identified above would continue into the future subject to the number of motor vehicle repair shop violators assessed penalties by the DMV and the size of the penalties assessed.

OLR Bill Analysis**sHB 6527*****AN ACT CONCERNING MINOR CHANGES TO THE INSURANCE AND RELATED STATUTES.*****SUMMARY:**

This bill makes changes in various insurance and transportation statutes. It:

1. broadens the applicability of several health insurance benefits;
2. specifies penalties for, and expands the Department of Motor Vehicles (DMV) commissioner's authority regarding, violations of the motor vehicle repair shop notice and customer acknowledgement requirements;
3. makes the insurance commissioner the agent to receive legal service of process for captive insurers domiciled in Connecticut, instead of all captive insurers;
4. requires all Connecticut-domiciled captive insurers to file a certificate of general good and articles of incorporation, if applicable, with the secretary of the state, instead of only those formed as a corporation; and
5. makes other minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, except for the provisions extending the applicability of certain insurance benefit requirements, which are effective January 1, 2010.

§§ 6-10 — HEALTH INSURANCE BENEFITS

The bill broadens the applicability of several health insurance benefits required by law, as described below. Due to federal law

(ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

Ostomy Appliances and Supplies

The bill requires individual and group health insurance policies amended in Connecticut on and after January 1, 2010 to cover medically necessary ostomy appliances and supplies, including collection devices, irrigation equipment and supplies, and skin barriers and protectors, up to \$1,000 annually. The law already requires policies delivered, issued, renewed, or continued in Connecticut to cover ostomy-related supplies.

Both the bill and current law apply to policies that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including coverage under an HMO plan.

Treatment of Tumors and Leukemia and Related Benefits

The bill requires individual and group health insurance policies renewed, amended, or continued in Connecticut on and after January 1, 2010 to provide certain benefits for the treatment of tumors and leukemia, reconstructive surgery, nondental prosthesis, chemotherapy, and wigs for chemotherapy patients. The law already requires policies issued or delivered in Connecticut to provide these benefits.

Coverage must be subject to the same terms and conditions applicable to other policy benefits. But the policy must provide at least a yearly benefit of \$500 for the surgical removal of tumors; \$500 for reconstructive surgery; \$500 for outpatient chemotherapy; \$350 for a wig; and \$300 for a nondental prosthesis unless the prosthesis is due to the surgical removal of breasts because of tumors, in which case the yearly benefit must be at least \$300 for each breast.

Both the bill and current law apply to (1) individual or group health insurance policies that cover (a) basic hospital expenses; (b) basic medical-surgical expenses; (c) major medical expenses; and (d) hospital or medical services, including coverage under an HMO plan, and (2)

individual health insurance policies that provide limited benefit health coverage.

General Anesthesia Relating to Dental Services

The bill requires group health insurance policies amended in Connecticut on and after January 1, 2010 to cover medically necessary general anesthesia, nursing, and related hospital services provided to a patient with a (1) complex dental condition that requires the procedure to be performed in a hospital or (2) developmental disability that places them at serious risk. The law already requires policies delivered, issued, renewed, or continued in Connecticut to cover these services.

Both the bill and current law apply to group health insurance policies that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including coverage under an HMO plan.

The bill does not make a corresponding change to the individual insurance statute, CGS § 38a-491a. By law, individual health insurance policies delivered, issued, renewed, or continued in Connecticut must cover the same dental-related services.

§§ 11-14 — MOTOR VEHICLE REPAIR SHOP LAWS

The bill allows the DMV commissioner to impose penalties for violations of the motor vehicle repair shop notice and customer acknowledgement requirements under PA 08-146 (see BACKGROUND). It authorizes the commissioner to suspend or revoke a repair shop's license, fine the shop up to \$1,000 for each violation, or both. In addition, or in lieu of these penalties, the commissioner may order the licensee to make restitution to an aggrieved customer. By law, the commissioner may impose these penalties for violations of other repair shop laws.

By law, a repair shop customer may waive, in writing, his or her right to a repair estimate. The bill prohibits a repair shop from using waivers to evade its duties under PA 08-146. The law already

prohibits waivers to evade duties under other repair shop laws.

The bill authorizes the DMV commissioner to conduct investigations and hearings regarding a repair shop's compliance with PA 08-146. He currently has this authority with respect to other motor vehicle dealer and repairer laws. The bill also allows the attorney general, at the DMV commissioner's request, to seek a restraining order requiring a repair shop to cease violating PA 08-146, a power he has with respect to other repair shop laws.

§§ 1 AND 2 — CAPTIVE INSURERS

The bill makes the insurance commissioner the agent to receive legal service of process for captive insurers domiciled in Connecticut. Current law makes him agent for captives regardless of the state of domicile. Thus, it is unclear whether the insurance commissioner may still receive service of process for out-of-state captives doing business in Connecticut.

The bill requires a captive insurance company formed as a reciprocal insurer or LLC to give the secretary of the state, along with any required filing fee, a certificate of general good from the insurance commissioner and the insurer's articles of incorporation, if applicable. By law, a captive formed as a corporation must already do this.

§§ 3 AND 4 — LIFE SETTLEMENT STATUTES

The bill resolves a statutory conflict within the license expiration and renewal requirements for life settlement producers and brokers. PA 08-175 both retained the former law's requirements and added new, conflicting ones. The bill retains the former law, specifying that provider and broker licenses expire on March 31 in each year, but may be renewed annually. If a provider or broker fails to pay the renewal fee on time, the commissioner must revoke his or her license, unless he or she pays within five days after the commissioner sends, by first class mail, a written notice of nonrenewal after March 31.

The bill deletes the following provisions: (1) the term of a (a) producer license is equal to that of a domestic stock life insurance

company (annual renewal) and (b) broker license is equal to that of an insurance producer (if an individual, renewal is every other year on the person's birth date, and if an entity, February 1 of even-numbered years) and (2) licenses must be renewed on their anniversary dates and that failure to pay the renewal fee by that date results in license expiration.

The bill deletes another confusing and apparently erroneous provision from PA 08-175. The provision specifies that if a broker verifies the existence of a life insurance policy, then a life settlement provider is deemed to have fulfilled the law's extensive disclosure requirements.

By law, a life settlement provider, within 20 days after a life insurance policy owner executes a life settlement contract, must give the insurer that issued the policy written notice that the policy has become subject to a life settlement contract. The bill requires the provider to send the notice with a copy of the insured's (1) required medical records release form and (2) application for the life settlement contract, instead of with optional disclosure documents.

§ 5 — MEDICAL DISCOUNT PLAN ORGANIZATION

The bill authorizes the insurance commissioner to adopt regulations to establish an electronic filing process, instead of an electronic filing and acknowledgement process, for a medical discount plan organization (MDPO) to follow when updating its filed list of Connecticut marketers operating under a different name from its own.

§ 15 — NOTICE TO COURTS AND POLICE DEPARTMENTS

The bill eliminates the class D felony penalty for the insurance commissioner's failure to provide courts and police departments a list of surety bail bond agents or changes to the list.

BACKGROUND

Repair Shop Notice and Acknowledgment (PA 08-146)

Effective January 1, 2009, the law requires automobile physical

damage appraisals or estimates written on an insurer's or a motor vehicle repair shop's behalf to include the following notice in at least 10-point boldface type: NOTICE: YOU HAVE THE RIGHT TO CHOOSE THE LICENSED REPAIR SHOP WHERE THE DAMAGE TO YOUR MOTOR VEHICLE WILL BE REPAIRED (CGS § 14-65l).

The law prohibits a motor vehicle repair shop participating in an insurer's vehicle repair program from repairing a vehicle under that program unless the claimant (i.e., person whose insured vehicle needs repairs) acknowledges in writing that he or she is aware of the right to have the vehicle repaired at a shop he or she chooses (CGS § 14-65m). The acknowledgement may be (1) included in the repair authorization, which a customer signs before repairs are made, or in a separate document and (2) faxed or e-mailed. The acknowledgement must state: "I am aware of my right to choose the licensed repair shop where the damage to the motor vehicle will be repaired."

Licensed Repair Shops. By law, no one may operate a motor vehicle repair shop without a DMV-issued new car dealer's, used car dealer's, repairer's, or limited repairer's license (CGS § 14-52). A "motor vehicle repair shop" means a new car dealer, a used car dealer, a repairer, or a limited repairer (CGS § 14-65e).

Captive Insurance Company (PA 08-127)

Effective January 1, 2009, the law permits a captive insurance company to be licensed and domiciled in Connecticut to transact life insurance, annuity, health insurance, and commercial risk insurance business. A captive insurance company is, in its simplest form, an insurance company that is a wholly-owned subsidiary whose primary function is to insure all or part of the risks of its parent company.

The law enumerates requirements for a Connecticut-domiciled captive's formation, capital and surplus, local office presence, ability to meet policy obligations, payment of certain fees and premium taxes, and annual reporting, among other things.

A captive domiciled outside of Connecticut may conduct business

in Connecticut, subject to conditions specified in federal and state laws.

Domicile. A company's domicile is the jurisdiction under whose laws the company is organized and in which it has its principal place of business.

Related Bills

sHB 5021. The Insurance and Real Estate Committee favorably reported sHB 5021 (File 34), which (1) increases the annual coverage maximum for ostomy-related supplies to \$5,000 from \$1,000 and (2) as with this bill, extends the requirement to policies amended in Connecticut.

sHB 5673. The Insurance and Real Estate Committee favorably reported sHB 5673 (File 11), which (1) expands current law regarding health insurance coverage for wigs and (2) as with this bill, applies certain insurance coverage requirements (i.e., treatment of tumors and leukemia, reconstructive surgery, nondental prosthesis, chemotherapy, and wigs for chemotherapy patients) to policies renewed, amended, or continued in Connecticut.

sSB 457. The Insurance and Real Estate Committee favorably reported sSB 457 (File 241), which requires all repair shops to obtain a customer's written acknowledgement that he or she is aware of his or her right to choose the licensed repair shop that will repair his or her vehicle.

sHB 6354. The Insurance and Real Estate Committee favorably reported sHB 6354 (File 260), which (1) requires the insurance commissioner to notify the courts and police departments of any change in a surety bail bond agent's principal business address or telephone number and (2) as with this bill, eliminates the class D felony penalty if the commissioner fails to provide them a list of surety bail bond agents or changes to the list.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/12/2009)